

House Amendment 2047

PAG LIN

1 1 Amend Senate File 601, as amended, passed, and
1 2 reprinted by the Senate, as follows:
1 3 #1. Page 55, by inserting after line 22 the
1 4 following:
1 5 <Sec. _____. NEW SECTION. 657.11A ANIMAL FEEDING
1 6 OPERATIONS == DEFENSE TO NUISANCE ACTIONS.
1 7 This section applies to a claim as part of any
1 8 cause of action involving real estate where an animal
1 9 feeding operation, as defined in section 459.101, is
1 10 constructed.
1 11 1. The claim must allege that the defendant is
1 12 liable for damages based on an activity originating on
1 13 the real estate in which the defendant holds a legal
1 14 or equitable interest and which if proven would be any
1 15 of the following:
1 16 a. A public or private nuisance under statute
1 17 including this chapter or principles of common law.
1 18 b. Trespass or interfere with the comfortable use
1 19 and enjoyment of life or property under statute
1 20 including this chapter or principles of common law.
1 21 c. An injury to health or damages to property
1 22 caused by airborne emissions of odor or particulate or
1 23 nonparticulate matter under statute or principles of
1 24 common law.
1 25 2. a. If an activity originating on real estate
1 26 in which the defendant holds a legal or equitable
1 27 interest occurred earlier than the consenting action
1 28 imputed to the plaintiff, the defendant shall have an
1 29 absolute defense to the claim as provided in this
1 30 section. A consenting action imputed to the plaintiff
1 31 means any of the following:
1 32 (1) The plaintiff's purchasing of real estate
1 33 where the damages would have otherwise accrued.
1 34 (2) The plaintiff's construction of a structure
1 35 which is part of a residence, business, agricultural
1 36 operation, religious institution, or public use area
1 37 on real estate where the damages would have otherwise
1 38 accrued.
1 39 b. If a defendant cannot prove that a consenting
1 40 action is imputed to the plaintiff, this section shall
1 41 not provide a defendant a defense to the claim as
1 42 provided in this section. The defendant shall have
1 43 the burden of proving that the claim cannot be brought
1 44 or by proving a defense supported by clear and
1 45 convincing evidence.>
1 46 #2. By renumbering as necessary.
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1 50 _____
1 50 WHITAKER of Van Buren
2 1 SF 601.519 82
2 2 da/je/10169